



## **ATLANTIC STATES LEGAL FOUNDATION, INC.**

### **Lower Ley Creek Subsite of the Onondaga Lake Superfund Site Town of Salina, Onondaga County, New York**

#### **Atlantic States Legal Foundation, Inc., PRAP comments 11 August 2014**

Atlantic States Legal Foundation, Inc. appreciates this opportunity to comment on the proposed PRAP for the Lower Ley Creek subsite of the Onondaga Lake Superfund Site. Our comments, which follow, should be incorporated into the record being prepared for the agency to draft a final ROD for this site. Do not hesitate to contact us if further clarification of our comments is needed.

Before giving our suggestions for the final action, we wish to put on record a number of more general comments that pertain to this site and to the process.

#### Availability of documents

For all practical purposes the public has been excluded from viewing any of the important technical studies and reports for this site. We at ASLF are a repository library, but only received a CD with said documents shortly before the public hearing held on 29 July 2014. We also realize that the documents are on-line on the US EPA website. For all previous subsites of the Onondaga Lake Superfund Site we have received hard copies of reports when they were issued. We were able to read and assimilate the detailed materials and the public was likewise able to come to our office. The current approach of dumping all materials into repositories and onto the web in one operation effectively eliminates any possibility of their being read. We urge, despite the extra trees that might have to be sacrificed, that paper copies of all reports be made available as previously.

The Congressional mandate to US EPA requires that different alternative remedies be compared as to their initial capital cost and their full life cycle costs. However, in addition to a monetary comparison, it would be extremely useful if the different remedies also stated the energy costs (in BTUs or other appropriate units of measurement). This is especially true today when we are deeply concerned with overall carbon emissions.

This subsite is one of a number of subsites that could be called the Ley Creek Watershed cluster. Although we realize that different teams are working on the different subsites, the public needs to better understand how these are being coordinated. Perhaps they are technically independent of one another and thus can be so evaluated, but we are skeptical and would appreciate a further discussion of how they all are being considered beyond what appears in the site history part of the PRAP.

Finally, we are concerned that US EPA has apparently completely neglected the Congressional intent upon reauthorizing the Comprehensive Environmental Response, Compensation and Liability Act that superfund sites are not meant to be permanent repositories of hazardous waste, but that sites should be cleaned up and made available for re-use. Perhaps there are materials that cannot be destroyed or otherwise made harmless to people and the environment. If that is the case then such an analysis should be included in the PRAP. Bear in mind that we are not asking for, nor do we want, transport of the wastes to another location for permanent storage. We are looking at remedies that involve treatment and re-use of the site. Finally, these sites located close to or in a city are valuable real estate that should be available for re-development. That ultimate value should be considered in looking at remedial options.

#### Site specific comments

We are skeptical of the analysis of risk for those eating fish from Ley Creek. We realize that much of the land in question is “private” and therefore officially off-limits to fisher people. However, we know both anecdotally and from discussion at other subsite meetings that people still fish this creek. In addition, the analysis does not look at the highest risk consumer, namely those immigrants and refugees, particularly those from Southeast Asia, who depend on fish for a significant part of their diet and who might be fishing in Ley Creek. ASLF with funding from various sources including US EPA has been trying to: evaluate who is eating the fish, communicate better with non-English language fish eaters, and supply better advisories and warnings. Currently, the New York State Department of Health is beginning another study (funded by ATSDR) to determine fish consumption from the overall Onondaga Lake Basin and their input should be sought before US EPA attempts to quantify risk in determining remediation strategies for this subsite.

We agree with Congress that the end point of remediation should not be permanent storage piles, or landfills, containing hazardous contaminants. Enough work and practical experience has shown that PCBs can be bio-remediated. This can be through active means or just through attenuation. The physical arrangements of the materials can influence half-lives. Also, studies have shown that the mycorrhizal associations with the native Black mulberry (*Morus nigra*) include bacteria that breaks down PCBs. And of course there are other methods being used around the world to destroy PCBs in soil. None of these alternatives seems to even have been considered and therefore it is impossible to evaluate their feasibility in this situation. Methods also exist to deal with soil metal contaminants either by treatment and removal or else by immobilization techniques. Again this is neither mentioned nor discussed.

Much of lower Ley Creek was once wetland. Public money through the enforcement of *Atlantic States Legal Foundation and New York State vs. Onondaga County* as well as the clean-up being undertaken by Honeywell (and volunteer clean-up by Lockheed Martin) will result in an Onondaga Lake that will be swimmable and with time, fishable. Through the assessment of natural resource damages and implementing restoration-like projects, habitat in the Onondaga Lake Basin should be “improved.” The successful restoration of native fish species (and associated lower organisms) requires spawning habitat and that requires better and littoral habitats and restored wetlands. Most of the lower Ley Creek acreage was wetlands that were subsequently filled by various dumping programs. We have previously been ignored in recommending wetland restoration, but that aside, it should be a significant part of removing current adverse effects of these contaminants to human health and the environment.